

RCE and RESPONSE under 37 C.F.R. § 1.114
U.S. Appl. No. 10/026,397

REMARKS:

By this amendment Applicant cancels previously pending claims 1-2, 5-6, 8-14 and 16-19 and adds new claims 20-38, thus claims 20-38 are now all the claims pending in the present application. All previously pending claims stand rejected. Reconsideration and allowance of new claims 20-38 are respectfully requested in view of the remarks that follow.

OBJECTIONS.

SPECIFICATION

The Office Action continues to object to the specification under 37 C.F.R. § 1.75(d)(1) as not providing proper antecedent basis for previously pending claims 4, 7 and 8. Applicant traverses this rejection as applied to corresponding new claims 23, 26 and 27. It is respectfully submitted that the limitations of claims 23, 26 and 27 have express support in the detailed description section. (See specification pg. 10, ll. 10-12 (*polling*) and pg. 12, ll. 21-22 (*load status*); pg. 12, ll. 2-7 (*physical capabilities*); and pg. 12, ll. 13-20 (*logical capabilities*)). Accordingly, reconsideration is respectfully requested.

CLAIM REJECTIONS.

35 U.S.C. § 103(a)

Claims 1-2 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over US 6,002,936 to Roel-Ng in view of various secondary references/combinations including US 5,410,651 to Sekizawa et al. (hereinafter "Sekizawa"), US 6,973,518 to Purpura, and/or European Patent Application EP 0980190 to Koehne et al. (hereinafter "Koehne"). Applicant respectfully traverses these rejections as applied to the corresponding new claims for the following reasons.

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In all the 103 rejections, the Office Action relies on Roel-Ng to disclose dynamically generating the client classmark as the mobile computing device is moved (e.g., Applicant's claim 1). As discussed in Applicant response of October 19, 2005, Roel-Ng fails to teach or suggest this feature of Applicant's claims. Instead, Roel-Ng discloses well known sending a classmark information message 310 which includes information about the mobile station to the mobile switching center (MSC) 350 or base station controller (BSC) 340. Roel-Ng further proposes including in the classmark information message 310, the positioning capabilities of the Mobile Station 300 as well. However, as the positioning capabilities or other information in classmark information message 310 do not appear to ever change, and thus there appears no reason to, and in fact Applicant believes Roel-Ng does not teach or suggest, dynamically generating classmark information.

Furthermore, a significant distinction between the invention disclosed by Roel-Ng and that claimed by Applicant is that the classmark information message discussed by Roel-Ng is used by the MSC or BSC or other network component to determine the capabilities of the mobile device. By way of contrast, the client classmark claimed in Applicant's claims is used by the client applications/operating systems running on the mobile device itself so that the execution of these applications or functionality available for those applications may be altered or scaled to balance performance traits. (See specification pg. 9, ll. 14-17).

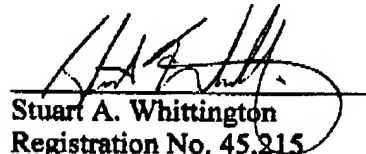
To better clarify this feature of Applicant's embodiments, Applicant presents new claims 20-38 which emphasize this significant difference. The remaining limitations of the new claims correspond to the limitations of the previous claims and no new matter is included. Examination and favorable consideration of these new claims are respectfully requested. Because Roel-Ng, Sekizawa, Purpura, and Koehne, alone or in combination, fail to teach or suggest the foregoing features of Applicant's claims, Applicant's claims are patentable over the cited art of record.

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CONCLUSION.

In view of the above, reconsideration and allowance of this application is now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee or deficiency thereof, except for the Issue Fee, is to be charged to **Deposit Account # 50-0221.**

Respectfully submitted,


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